

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

December 6, 2001

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, December 6, 2001, at 1:00 p.m., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Jerry Michaelis, Chair; Don Anderson; Bud Hentzen; Ray Warren; James Barfield; Elizabeth Bishop; Bill Johnson (late arrival); Harold Warner; Ray Warren; Kerry Coulter (late arrival), Ron Marnell and John W. McKay, Jr. Frank Garofalo; David Wells and Dorman Blake; were not present. Staff members present were Marvin S. Krout, Secretary; Dale Miller, Assistant Secretary; Donna Goltry, Principal Planner; Scott Knebel, Senior Planner; Bill Longnecker, Senior Planner; Neil Strahl, Senior Planner; Jess McNeely, Associate Planner; and Valerie Robinson, Recording Secretary.

1. Approval of the MAPC minutes for November 8, 2001 and November 15, 2001.

MOTION: That the minutes for November 8, 2001 be approved.

MARNELL moved, **HENTZEN** seconded the motion, and it carried unanimously (8-0).

WARREN What was that the minutes? There's a correction on a vote in the minutes.

KROUT Saying vote should be 6-4 with one abstention.

2. Appeal of MAPD conditions for Sketch Plats (Martin Estates and Rau Estates) located south of Central, between 151st Street West and 167th Street West.

NEIL STRAHL Planning Staff presented staff report. Item 2 is the appeal of staff conditions for 2 sketch plats, The Marten Estates and Rau Estates. The applicant in this case is represented by the agent Michelle Webster, who is here today, and she's appealing staff's recommendations that both plats be designed utilizing urban scale lot, bundling requirements.

MCKAY What's the criteria with the half acre?

STRAHL The urban subdivision is defined in our Subdivision Regulations as, I believe, not greater than half an acre or 20,000 square feet.

MCKAY But you're asking them to redesign it based upon the criteria when they are going to be annexed and yet you're putting a half acre on it. Is that correct?

STRAHL Right, half acre.

MCKAY What criteria says then it's got to be half acre. You had them redesign this because it's so close to the 3-mile area. That's going to be where the utilities are going to be available, so you're asking them to do redesign so that it meets our new criteria as far as when you'll be able to hook to it. They want to go to 5,000 square feet in the overall design Are they not allowed to do that?

STRAHL Yes they are.

MCKAY What's the half-acre?

KROUT The lots should be no more than one half acre in size, but they can be less. They can be between 5,000 and 20,000 square feet.

STRAHL That's the maximum.

MICHELLE WEBSTER, With Terra Tech Land Surveying for the applicant. I've been coming to this board for 20 years and I learned about this bundling requirement this year, about 4 months ago. I was aware that bundling countywide was trying to get some support from the Planning Commission/County Commissioners. I was aware of that, and I did know that it did not pass, and that's what I thought was going to hold up these 2 plats. So I went ahead and submitted them after that had gotten voted down, only to catch the staff comments that says I still have to use bundling because of their interpretation of the regulation that I did pass out to you and I highlighted. I met with Marvin Krout, my client Mr. Marten and we talked about this regulation. He says it's been on the books for 15 years and it's been applied consistency in the last 15 years, and I have a problem believing that's true, having been before this board and knowing other professionals that do subdivision development within this County. So I asked Neil to give me some examples of bundling subdivisions that have been recorded. Well he couldn't think of any. I requested some names of plats that you've reviewed. He could only think of three, one was the one that Tim Austin did with the Cell One Lease, another one was J & D Addition which I've been contacted by the owners of that plat and they were very unhappy with having to go through that process. They wanted me to bring it back up and try to get them out of it, even though their final plat had already been approved.

The bundling language is vague. What is the definition of a lot? What happens if a lot is sold? How are lots going to be accessed? Can land be developed easily and economically?

WARREN What you suggested is that special assessments change. Explain.

WEBSTER Concern with language and enforcement.

WARREN The concept, lack of land, we need to provide development in a manner that further development can take place, saving prime property for the proper density.

HENTZEN Fewer or more lots. What does the Planning Department want?

KROUT I want to point out a few things. One is to remind you of the location of these developments, west of 151st Street West and South of Central. They're going to be inside a new loop of a Northwest highway; it's 1 mile west of Rainbow Lakes and about a mile north, less than that, of Auburn Hills. We are not talking about something that's 50 or 100 or even 30 years away. I think that we have master plans for sewer and water that's going to serve this area and development is going to happen, water and sewer are going to be there very soon. This is clearly in the growth area and not something that's speculative about when it's going to happen. Some of you are on the Subdivision Committee and attended a long discussion we had about proposed subdivision amendments, and the homebuilders came in at that time and talked about some of the difficulties of dealing with these kinds of bundled subdivisions countywide. In the end I guess I always had this feeling of agreeing there are extra engineering costs. It is farther along in the future and maybe it will be difficult to expect and to ask everyone in the County to do this sort of platting and planning. It is necessary in the urban growth area and tracts like this to be looking ahead, and what we said at the Subdivision Committee was that we agreed this wording did need to be clarified and elaborated on, and that issues like how do you construct petitions for improvements and what triggers those petitions we ought to sit down and work on. But, I think it would be a real mistake to go backwards and say now we were not even going to require this kind of planning in the area that we have capital improvement program established that were going to be providing services out there. I think it really is important for you to look at it, before you leave this item, cause I think this is the right time for me to tell you. I don't know if the Planning Commission realizes it or not but in your motion to approve the Comprehensive Plan Amendments you did include the idea of bundling as a requirement countywide. I'm going to bring that item to City Council and County Commission in a couple of weeks. We had a long discussion with the Subdivision Committee and there seemed to be a consensus about the Subdivision Committee that maybe that was too bold, but maybe you want to discuss that at the end of today's meeting a little bit more and see if that's the message you really want me to bring to City Council and County Commission. We think water and sewer is imminent for this site. This would be a real mistake to divide this into lots like this.

MICHAELIS What do we need to do? Do we need to take action?

KROUT We do need to take action. It's not really taking an action on a plat, because a sketch plat is really unofficial, but what Michelle is asking on behalf of her client is to give her some direction before she has to sit down and actually file a preliminary plat or one step plat, in terms of do you agree with the staff comments that we need to prepare this with showing further subdivision, or do you want to give her the direction that you think you'll waive that requirement in this case?

MARNELL How binding is this non-decision we're making then, because that's what it sounds like this is an official vote. I for one feel strongly that we need to stick to the regulations if this is a growth. This is in fact one of the functions of planning, we are planning for orderly growth, and I think we need to stick with it. If it's an appeal to waive that regulation, I would not be in favor of it.

KROUT You're right, this is a awkward piece of the Subdivision Regulations. It's voluntary to file a sketch plat. Michelle filed a sketch plat to get feedback before she would get into the more details and spend more money. But it's not a plat, so the decision isn't binding. It will give her some direction on which way to go when she files a preliminary plat.

HENTZEN I didn't realize that when we got started, but I want to tell you I was called by the applicant, and we did nothing. I was informed that it was going to be on our agenda this week, that's about as far as we went. I did come up to the Planning Department and a couple of people helped me, and I went away confused. I just didn't understand many of the things that we talked about so far today. Is the applicant asking for fewer or more lots than we want to give him?

MICHAELIS She wants that configuration right there.

HENTZEN I understand, what does the Planning Department want?

KROUT The Planning Department wants her to design that plat so that it's easily convertible to be further subdivided in the future. We don't object to her selling that many lots, which is about 25 lots, but each of those lots should show how the lots are going to be affected in the future, and where setbacks are going to be when they are further subdivided.

WARREN In addition to provide for easements down through these lots, so that they get further subdivided, the easements are contingent dedications; I think those are important.

MOTION: That the plats comply with Subdivision Regulations and recommendations made by staff.

MCKAY moved, **WARREN** seconded the motion, and it carried unanimously (9-1-0) **HENTZEN** opposed.

- 3a. **CUP2001-00004 DP62 (associated with ZON2001-00008)** Sun Chancellor, L.P. dba Claremont Companies (owner); Robert W. Kaplan (agent) request amendment to create Parcel 13 from Parcel 9 and permit commercial uses on Parcel 13, (Sundance Apartments).

Lot 3, Block 1, E.E. Jabes Addition to Wichita, Sedgwick County, Kansas. Generally located at the Northwest corner of Rockhill and Rock Road.

- 3b. **ZON2001-00008 (associated with CUP2001-00004 DP62 amendment #7)** Sun Chancellor, L.P. dba Claremont Companies (owner); Robert W. Kaplan (agent) request zone change from "MF-29" Multi-Family to "LC" Limited Commercial;

That part of Lot 3, Block 1, E.E. Jabes Addition to Wichita, Sedgwick County, Kansas described as follows: Beginning at the Northeast corner of said Lot 3; thence South 00 degrees 33'13" East along the East line of said Lot 3, 820.00 feet to the Southeast corner of said Lot 3; thence South 89 degrees 26'47" West along the South line of said Lot 3, 250.00 feet to the P.C. of a curve to the right in said South line; thence Westerly along said curve, having a central angle of 18 degrees 25'33" and a radius of 350.53 feet, an arc distance of 112.73 feet, (having a chord length of 112.24 feet bearing North 81 degrees 20'26" West), to the P.C. of a curve to the left; thence Northerly along said curve, having a central angle of 27 degrees 55'39" and a radius of 340.00 feet, an arc distance of 165.73 feet, (having a chord length of 164.09 feet bearing North 13 degrees 38'43" East), to the P.T. of said curve; thence North 00 degrees 19'07" West, 93.98 feet; thence North 89 degrees 40'53" East, 2.71 feet; thence North 00 degrees 52'58" West, 74.81 feet; thence North 01 degree 08'58" East, 22.27 feet to a corner of a 20 foot water easement (Film 374, Page 1195); thence North 00 degrees 00'15" East along the West line of said 20 foot water easement, 265.00 feet to a corner of said 20 foot water easement; thence South 89 degrees 59'45" East along the North line of said 20 foot water easement, 13.75 feet; thence North 00 degrees 15'48" West, 187.07 feet to a point on the North line of said Lot 3; thence North 89 degrees 26'47" East along the North line of said Lot 3, 299.94 feet to the point of beginning. Generally located at the Northwest corner of Rockhill and Rock Road.

BACKGROUND AND INFORMATION PRESENTED AT THE DECEMBER 6, 2001 MAPC MEETING

MEMO DATED: November 27, 2001

This is a requested rezoning of approximately six acres and amendment of the community unit plan. It is located on the west side of Rock Road approximately ¼ mile south of 21st Street North. The requested change from "MF-18" Multi-family to "LC" Limited Commercial is to allow the replacement of ten apartment buildings and a commons area with three to four commercial outparcels. Proposed uses are retail, restaurants, banks and other commercial uses of similar intensity.

District II Advisory Board originally heard this case on April 2, 2001 (voted 7-0 to approve), and MAPC heard the case April 5, 2001 (voted 14-0 to approve). On May 15, 2001, the Wichita City Council voted (7-0) to refer the case back to District II Advisory Board and MAPC for reconsideration.

The case was scheduled initially for reconsideration at the July 16th DAB II and July 19th MAPC meetings, next deferred to the August 20th DAB II and August 23rd MAPC meetings, then deferred at the applicant's request. The case has been rescheduled for the DAB II meeting on December 3rd and the MAPC meeting on December 6th.

Your packet includes the following documents:

- Item #1 Excerpt of minutes of the Wichita City Council on May 15, 2001.
- Item #2 Memo dated July 10, 2001 from Jamsheed Mehta, Chief Planner, Transportation Division, MAPD, summarizing the recommendations of the traffic study entitled "Traffic Impact Analysis: Chelsea Station Shopping Center" prepared by TranSystems Corporation (July 2001) and the staff analysis of traffic impacts presented at the MAPC meeting held April 5, 2001.
- Item #3 Market study entitled "Rock Road Retail Market Reconnaissance and The Potential Economic Effects of Granting a Request to Rezone a Portion of the Sundance Apartments Property," Gruen Gruen + Associates (July 12, 2001).
- Item #4 Evaluation dated November 26, 2001 by Stanley D. Longhofer, Director, Stephen L. Clark Chair of Real Estate and Finance, Wichita State University, of the market study by Gruen Gruen + Associates.
- Item #5 Memo dated April 2, 2001 and staff report provided to MAPC prior to its recommendation and action.

Please consider these materials in your discussion of the case.

GOLTRY, Planning Staff, stated that this case has been heard before by MAPC. The packet provided to MAPC included the original staff report (from the meeting of February 22, 2001) and the memo dated April 2, 2001. This memo included staff's revised recommendation for approval and was presented at the MAPC meeting on April 5, 2001.

HENTZEN As I recall, staff recommended approval; can you tell me what's changed factually that now you recommend denial?

GOLTRY We're recommending approval. In February, our original staff report said denial, but was before we did the in-depth transportation analysis and the denial was primarily because we said we hadn't had time to do the transportation analysis. Then when it came forward to MAPC in April we recommended approval, because the transportation analysis indicated that we could indeed sustain this level of development, and it is impacts on Rock Road would not be negative. We are recommending approval.

HENTZEN But I'm reading; "Based on these conditions plus the information available prior to the public hearing staff recommends that the request be denied".

GOLTRY Is that not the one from February? That was the initial one that we reconsidered and recommended the opposite, based on the new information that we had in March and April of last year.

HENTZEN When we considered it here, did staff recommend denial or approval?

GOLTRY We recommended approval on the date that we heard the case.

HENTZEN What are you recommending now?

GOLTRY Approval.

MARNELL Donna, are you incorporating the conditions that the District Advisory Board recommended.

GOLTRY Yes, I would recommend that you incorporate the District Advisory Board's recommendations.

BISHOP What is the cross lot traffic?

GOLTRY They would be required to provide their cross lot access to make it available at this point along the northern property line.

BOB KAPLAN, applicant, I don't have any issues with the case.

MCKAY Do you agree with requirements, even the two new ones?

KAPLAN Yes.

MOTION: To approve, subject to staff comments and citing the findings in their report.

HENTZEN moved, **COULTER** seconded the motion, and it carried unanimously (10-0).

Items 4-1, 4-3 through 4-9 were taken in one motion, pulled item 4-2.

JOHNSON moved, **WARNER** seconded the motion, and it carried unanimously (10-0).

4-1. SUB2001-105 – Final Plat of GRAY'S FIFTH ADDITION, generally located on the northeast corner of Hoover Road and 47th Street South.

- A. Prior to this plat being scheduled for City Council review, annexation of the property will need to be completed. Upon annexation, the property will be zoned SF-5, Single-Family Residential and allow for the lot sizes being platted.
- B. If annexation does not occur, a zone change request to SF-5, Single-Family Residential will be needed to allow for the lot sizes being platted. This plat will be subject to approval of any associated zone change and any related conditions of such a zone change. Prior to this plat being heard by the MAPC, a zone change shall have been submitted and approved by the MAPC.
- C. The Applicant shall guarantee the extension of City water and sanitary sewer to serve the lots being platted.
- D. City Engineering needs to comment on the need for any guarantees or easements. The Applicant shall submit a revised drainage plan. A drainage guarantee is needed.
- E. County Engineering needs to comment on the need for street improvements. County Engineering has requested a guarantee for a sidewalk and signalized pedestrian crossing along Hoover Road; however actual construction will be based on traffic warrants. Left turn lanes are required along Hoover.
- F. County/City Engineering needs to comment on the status of the applicant's drainage plan. A Drainage Plan and Master Lot Grading Plan is needed. A Levee permit from County Engineering is required for the pond construction in Reserve A. The Soil Conservation District should be contacted regarding elimination of the terraces.
- G. County Fire Department requests a temporary 20-ft access road adjacent to the plat on the south line from Hoover to Doris. The Applicant shall reach an agreement with the County Fire Department on this issue prior to City Council

consideration.

- H. GIS has requested that abbreviations be used to label the street suffixes (44th St. S).
- I. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- J. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the appropriate governing body, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- K. Parks and Recreation Department may accept the Reserve as park use. If acceptance occurs, the plat text shall reference the use of the Reserve for said use.
- L. The Applicant shall guarantee the paving of the proposed interior streets to the urban street standard. Sidewalks shall also be provided along one side of all through, non-cul-de-sac streets.
- M. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- N. On the final plat, the MAPC signature block needs to reference "J.D. Michaelis, Chair".
- O. The applicant shall submit a copy of the instrument which establishes the pipeline easements on the property, which verifies that the easements shown are sufficient and that utilities may be located adjacent to and within the easements.
- P. The applicant's agent shall determine any setback requirements for the pipelines by researching the text of the pipeline agreements. If a setback from the pipeline easements is provided for in the pipeline easement agreements, it shall be indicated on the face of the plat.
- Q. The Subdivision regulations discourage the inclusion of pipeline easements within the perimeter of residential lots. It is recommended that the pipeline crossing the northern line of the plat be included within a Reserve, or in the alternative a restrictive covenant provided identifying the pipeline easement. southbound left turn lane. The Applicant intends to retain the pipeline easements on the lots. A restrictive covenant will be needed.
- R. The plat text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- S. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- T. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- U. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- V. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- W. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- X. Perimeter closure computations shall be submitted with the final plat tracing.
- Y. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- Z. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. KGE has requested additional easements.

- AA. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

JOHNSON moved, **WARNER** seconded the motion, and it carried unanimously (10-0).

4-2. SUB2001-111 – One-Step Final Plat of REMINGRON PLACE OFFICE PARK ADDITION, generally located on the south side of 21st Street North, east of Webb Road.

- A. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved. An off-site drainage agreement is needed. A guarantee is required.
- D. The plat proposes one access opening along 21st St. North. Traffic Engineering needs to comment on the access controls. Traffic Engineering recommended that the opening along 21st St. North shall be limited to right-turns only upon the construction of Cranbrook, and referenced on the plat. The Subdivision Committee approved full turning movements for this opening.
- E. Traffic Engineering has required a decel lane to the opening on 21st Street.
- F. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities. This covenant shall also provide for the Lot owners' Association to maintain the "parking strip" located between this site's west property line and driving surface for Cranbrook.
- G. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- H. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- I. On the final plat, the MAPC signature block needs to reference "J.D. Michaelis, Chair".
- J. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- K. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- L. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- M. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- N. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- O. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- P. Perimeter closure computations shall be submitted with the final plat tracing.

- Q. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- R. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- S. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

STRAHL Planning Staff, presented staff report, wanted to inform everyone the change in the planning conditions regarding the traffic improvements (decel lanes). The applicant informed staff that they are agreeable to that revised condition.

MOTION: As approved by the Subdivision Committee.

WARREN moved, **COULTER** seconded the motion, and it carried unanimously (10-0).

MCKAY The motion was to approve as it was in subdivision, and I think there was an amendment on the decel lane?

WARREN And as amended.

4-3. SUB2001-115 – One-Step Final Plat of WICHITA STOCKYARD ADDITION, generally located east of Broadway, on the south side of 21st Street North.

- A. Municipal services appear to be available to serve the site. City Engineering needs to comment on the need for guarantees or easements.
- B. City Engineering needs to comment on the status of the applicant's drainage plan. If any drainage is directed onto the adjacent railroad right-of-way, a letter shall be provided from that railroad indicating their agreement to accept such drainage.
- C. Traffic Engineering needs to comment on the access controls. The plat proposes seven access openings along 21st St. North. Distances should be shown for all segments of access control. Traffic Engineering has limited the site to five access openings: two openings for Lot 2, and three openings for Lot 1, two east of the drainageway and one west of the drainageway.
- D. The Applicant has requested a waiver of the right-of-way dedication needed for 21st St. The Subdivision Regulations require a 50-ft half street right-of-way width for arterials. The Subdivision Committee has approved the waiver.
- E. City Public Works has requested that the 100-ft drainage easement be denoted as a drainage dedication. The plat should be revised to depict three lots bounded by the drainage dedication.
- F. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- G. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- H. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- I. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- J. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- K. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- L. Perimeter closure computations shall be submitted with the final plat tracing.
- M. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- N. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. Peoples Gas has advised of a gas line within the site.

- O. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

WARREN moved, **WARNER** seconded the motion, and it carried unanimously (11-0).

- 4-4. DED2001-33** - Dedication of Access Control from Jeffrey Yarrow, for property located on the south of Douglas, east of Edwards.

OWNER/APPLICANT: Jeffrey Yarrow, 2615 W. Douglas, Wichita, KS 67213

LEGAL DESCRIPTION: Lots 133 and 135, Smithson's Addition, Wichita, Sedgwick County, Kansas.

PURPOSE OF DEDICATION: This Dedication is a requirement of Zoning Case No. ZON 2001-22, and is being dedicated for complete access control along Douglas Avenue.

Planning Staff recommends that the Dedication be accepted.

MOTION: To approve, subject to staff comments and citing the findings in their report.

JOHNSON moved, **WARNER** seconded the motion, and it carried unanimously (10-0).

- 4-5. DED2001-34** - Dedication of Street Right-of-Way from Jeffrey Yarrow, for property located generally located south of Douglas, east of Edwards.

OWNER/APPLICANT: Jeffrey Yarrow, 2615 W. Douglas, Wichita, KS 67213

LEGAL DESCRIPTION: The north ten feet of Lots 133 and 135, Smithson's Subdivision of Smithson's Addition, Wichita, Sedgwick County, Kansas.

PURPOSE OF DEDICATION: This Dedication is a requirement of Zoning Case No. ZON 2001-22, and is being dedicated for additional street right-of-way along Douglas.

Planning Staff recommends that the Dedication be accepted.

MOTION: To approve, subject to staff comments and citing the findings in their report.

JOHNSON moved, **WARNER** seconded the motion, and it carried unanimously (10-0).

- 4-6. DED2001-35** – Dedication of a utility easement from BA, LLC (Christian Alan Ablah) and KCBB, Inc., (Thomas W. Boyd) for property located south of Maple, west of Hoover.

OWNER/APPLICANT: Jeffrey Yarrow, 2615 W. Douglas, Wichita, KS 67213

LEGAL DESCRIPTION: Lots 133 and 135, Smithson's Addition, Wichita, Sedgwick County, Kansas.

PURPOSE OF DEDICATION: This Dedication is a requirement of Zoning Case No. ZON 2001-22, and is being dedicated for complete access control along Douglas Avenue.

Planning Staff recommends that the Dedication be accepted.

MOTION: To approve, subject to staff comments and citing the findings in their report.

JOHNSON moved, **WARNER** seconded the motion, and it carried unanimously (10-0).

- 4-7. DED2001-36** – Dedication of a Drainage from Goodwill Industries (Marie Mareda) for property located on the west side of Broadway, south of 48th Street South generally located on the west side of

OWNER/APPLICANT: Goodwill Industries, Marie Mareda, P.O. Box 8109, Wichita, KS 67208

LEGAL DESCRIPTION: The west 50 feet of Lot 1, Block 1, Goodwill Industries Addition to Wichita, Sedgwick County, Kansas.

PURPOSE OF DEDICATION: This Dedication is a requirement of Lot Split No. SUB 2001-112, and is being dedicated for construction and maintenance of drainage systems.

Planning Staff recommends that the Dedication be accepted.

MOTION: To approve, subject to staff comments and citing the findings in their report.

JOHNSON moved, **WARNER** seconded the motion, and it carried unanimously (10-0).

4-8. DED2001-37 – Dedication of a utility easement from RRM, Properties, LLC a Kansas Limited Liability (Ron Cornejo), for property located on the east side of Webb Road, north of Central.

OWNER/APPLICANT: RRM, Properties, LLC, a Kansas Limited Liability Company (Ron Cornejo), 2060 Tulsa, Wichita, KS 67216-2440

LEGAL DESCRIPTION: That part of Lot 1, Block 1, Family Golf Center Addition, an addition to Sedgwick County, Kansas, described as follows:

Beginning at the southwest corner of a 20-foot utility easement as granted in said Family Golf Center Addition, the southwest corner of said 20-foot utility easement being 180.00 feet east of the west line of said Lot 1, and 415.67 feet, more or less, north of the south line of said Lot 1; thence S00° 00'00" E, parallel with the west line of said Lot 1, 17.08 feet, more or less, to a point 514.91 feet north of the southwest corner of said Lot 1, as measured along the west line of said Lot 1, and 180.00 feet at S89° 59'21" E, from the west line of said Lot 1; thence N 89°59'21"W, 5.00 feet; thence S00°00'00" E, parallel with the west line of said Lot 1, 173.00 feet; thence S89°59'21" E, 45.00 feet; thence S00°00'00" E, parallel with the west line of said Lot 1, 225.60 feet to a point on the south line of said Lot 1; thence S89°59'31" E, along the south line of said Lot 1, 20.00 feet; thence N00°00'00" E, parallel with the west line of said Lot 1, 250.60 feet; thence N89°59'21" W, 40.00 feet; thence N00°00'00" E, parallel with the west line of said Lot 1, 165.09 feet, more or less, to the southeast corner of said 20-foot utility easement; thence N 90°00'00" W, along the south line of said 20-foot utility easement; 20.00 feet to the point of beginning.

PURPOSE OF DEDICATION: This Dedication is a requirement of Lot Split No. SUB 2001-110, and is being dedicated for construction and maintenance of public utilities.

Planning Staff recommends that the Dedication be accepted.

MOTION: To approve, subject to staff comments and citing the findings in their report.

JOHNSON moved, **WARNER** seconded the motion, and it carried unanimously (10-0).

4-9. DED2001-38 – Dedication of Street Right-of-Way from Kris Hill, for property located east of Seneca, south of 53rd Street North.

OWNER/APPLICANT: Kris Hill, 5060 N. Shelton, Wichita, KS 67204

LEGAL DESCRIPTION: The west 30 feet from the middle of road and the north 30 feet from the middle of road on a tract of land beg 164.37 feet east of the NW corner W 5A S 1/2, SE1/4, NW1/4 E to the northeast corner, south 265 feet west to the point south of beginning, north to beginning, Sec. 20, T26S, R1E, for street right-of-way purposes.

PURPOSE OF DEDICATION: This Dedication is a requirement of Building Permit No. 2001-06641, and is being dedicated for additional street right-of-way along Seneca.

Planning Staff recommends that the Dedication be accepted.

MOTION: To approve, subject to staff comments and citing the findings in their report.

JOHNSON moved, **WARNER** seconded the motion, and it carried unanimously (10-0).

Item 5-1 through 5-6 were taken in one motion

JOHNSON moved, **MARNELL** seconded the motion, and it carried unanimously (10-0).

ZONING:

5/1. VAC2001-00050 – Request to vacate a ten-foot utility easement, generally located southwest of Rock Road – 29th Street North Intersection.

OWNERS/APPLICANTS: Darin Frazier

AGENT: Chris Bernhardt

LEGAL DESCRIPTION: That part of the 10-foot utility easement on Lot 8, Block 1, The Village at Waterford Addition, ending at its point of intersection with the west property line of Lot 8, Block 1, The Village at Waterford Addition and the 20-foot building setback line on the east side of Lot 8, Block 1, The Village at Waterford Addition

LOCATION: Generally located southwest of the 29th Street N – Rock Road intersection, 2609 & 2613 Cameron Street

REASON FOR REQUEST: The applicant proposes to build over the lot lines of Lots 8 & 9, Block 1, The Village at Waterford Addition

CURRENT ZONING: Subject property is zoned SF-5, Single Family Residential. Properties to the north, east, south and west are zoned SF-5 Single Family Residential.

BACKGROUND: The applicant is requesting consideration to vacate the 10-foot utility easement on the north side of Lot 8, Block 1, The Village at Waterford Addition, where it abuts Lot 9, Block 1, The Village at Waterford Addition, ending at its point of intersection with the property line of Lot 8, on its west side and the 20-foot building setback line on the east side Lot 8, Block 1, The Village at Waterford Addition. The applicant has contacted the City Water and Sewer Department and 1-800- DIG-SAFE in regards to utilities in the easement. There are 6-foot side yard setbacks on Lots 9 & 8, per the UZC for SF-5 Single Family Residential Zoning Districts. The applicant proposes to build a single-family residence, with pool and detached garage across Lots 9 & 8.

Based upon the information available prior to the public hearing, Staff recommends the MAPC make the following findings and recommendation to the City Council:

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time November 14, 2001, which was at least 20 days prior to this public hearing.
 2. That private rights will not be injured or endangered by the vacation of the above-described utility easement, and the public will not suffer loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be approved.
- B. Therefore, the vacation of the utility easement described in the petition should be approved subject to the following conditions:
1. Provide the Planning Staff with a Restrictive Covenant, tying Lots 8 & 9 together as one lot and thus eliminating the 6-foot side yard setbacks that currently exist between Lots 8 & 9.
 2. Dedicate by separate instrument a 10-ft utility easement that will run on the west/rear yard of Lot 8, Blk 1, The Village at Waterford.
 3. Vacate that part of the 10-foot utility easement on the north side of Lot 8, Block 1, The Village at Waterford Addition, ending at its point of intersection with the required dedication of a 10-ft utility easement on the west side of Lot 8, Block 1, The Village at Waterford Addition and the 20-foot building setback line on the east side of Lot 8, Block 1, The Village at Waterford Addition.
1. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
 2. All improvements shall be according to current City Standards.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. Provide the Planning Staff with a Restrictive Covenant, tying Lots 8 & 9 together as one lot and thus eliminating the 6-foot side yard setbacks that currently exist between Lots 8 & 9.
2. Dedicate by separate instrument a 10-ft utility easement that will run on the west/rear yard of Lot 8, Blk 1, The Village at Waterford.
3. Vacate that part of the 10-foot utility easement on the north side of Lot 8, Block 1, The Village at Waterford Addition, ending at its point of intersection with the required dedication of a 10-ft utility easement on the west side of Lot 8, Block 1, The Village at Waterford Addition and the 20-foot building setback line on the east side of Lot 8, Block 1, The Village at Waterford Addition.
4. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
5. All improvements shall be according to current City Standards

MOTION: To approve, subject to staff comments and citing the findings in their report.

JOHNSON moved, **MARNELL** seconded the motion, and it carried unanimously (10-0).

5/2. VAC2001-00051 – Request to vacate a platted 25-foot front building setback, generally located southeast of the Webb Road-Harry Intersection.

OWNER/APPLICANT: Ultimate Homes, Inc. c/o Lee Copeland

AGENT: Baughman Company c/o Russ Ewy

LEGAL DESCRIPTION: Commencing at the northwest corner of Lot 2, Block 7, Huntcrest 2nd Addition, Wichita, Kansas; thence S 0 degrees 00' 00" E, 25.23-ft; thence southwesterly along a curve to the left having a radius of 1115.83-ft and a central angle of 0 degrees 43' 19" for an arc distance 14.06-ft (bearing S 82 degrees 03' 17" W chord distance of 14.06-ft) for a point of beginning; thence N 0 degrees 08' 58" W, 2.25-ft; thence S 89 degrees 51' 02" W, 22.40-ft; thence S 0 degrees 08' 58" E, 5.80-ft; thence northeasterly along a curve to the right having a radius of 1115.83-ft and a central angle of 1 degree 09' 52" for an arc distance of 22.68-ft (bearing N 80 degrees 51' 24" E chord distance of 22.68-ft) to the point of beginning.

LOCATION: Generally located on the southeast corner of Cranbrook Street & Mt. Vernon Street.

REASON FOR REQUEST: Existing encroachment of garage.

CURRENT ZONING: Subject property is zoned SF-5, Single Family Residential. Properties to the north, east, south and west are zoned SF-5 Single Family Residential.

BACKGROUND: The applicant is requesting consideration to vacate a portion of a platted 25-foot building setback line, where a garage was built. The existing encroachment is 4.6-feet at its deepest on the west side and 1.4-feet on the east side. The garage is 20.4-feet wide.

Planning Staff recommends consideration of the vacation request, allowing a vacation of the front setback of 4.6-feet on the west side of the garage and 1.4-feet on the east side of the garage

Based upon the information available prior to the public hearing, Staff recommends the MAPC make the following findings and recommendation to the City Council:

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time November 14, 2001, which was at least 20 days prior to this public hearing.
 2. That private rights will not be injured or endangered by the vacation of the above-described utility easement, and the public will not suffer loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be approved.

Therefore, the vacation of the utility easement described in the petition should be approved subject to the following conditions.

1. Vacate the front setback 4.6-feet on the west side of the garage and 1.4-feet on the east side of the garage, per the legal description.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. Vacate the front setback 4.6-feet on the west side of the garage and 1.4-feet on the east side of the garage, per the legal description.

MOTION: To approve, subject to staff comments and citing the findings in their report.

JOHNSON moved, **MARNELL** seconded the motion, and it carried unanimously (10-0).

5/3. VAC2001-00052 – Request to vacate a pedestrian easement and utility easement, generally located northeast of the 29th Street North-Ridge Road Intersection.

OWNER/APPLICANT: Ridge Port Development c/o Rob Ramseyer

AGENT: Baughman Company c/o Russ Ewy

LEGAL DESCRIPTION: Pedestrian Access Easement:
The southeastern 10-feet of Lot 6 together with the northwestern 10-feet of Lot 7, Block B,
Ridge Port 4th Addition, Wichita, Sedgwick County, Kansas.

Utility Easement:
The west 5-feet of Lot 8, and the east 5feet of Lots 9, Block B, Ridge Port 4th Addition,
Wichita, Sedgwick County, Kansas.

LOCATION: Generally located northeast of the 29th Street N – Ridge Road intersection

REASON FOR REQUEST: The applicant proposes replace pedestrian access easement and there are no utilities in the 10-ft easement

CURRENT ZONING: Subject property is zoned TF-3 Two - Family Residential. Properties to the north are zoned TF-3 Two Family Residential. Properties to the south are zoned TF-3 Two Family Residential and SF-5 Single Family Residential. Property to the east is zoned SF-5 Single Family Residential and is designated as Reserve C. Properties to the west (across Ridge Road) are zoned LI Limited Industrial.

BACKGROUND: The applicant is requesting consideration to vacate the 10-foot utility easement between Lots 8 & 9, Block A, the Ridge Port 4th Addition and a 20-foot pedestrian access easement between Lots 6 & 7, Block B, the Ridge Port 4th Addition. The 20-foot pedestrian access easement is contained/part of a 20-foot utility – drainage easement. The 20-foot pedestrian access easement goes into Reserve C, which is used for recreation, drainage, ponds, landscaping, open space, berms, gazebos, screening walls and sidewalks. The applicant is proposing to provide another pedestrian access easement, 10-foot wide, to the south of the current/proposed vacated one, between Lots 10 & 11, Block B, the Ridge Port 4th Addition, which provides better access to recreational opportunities in Reserve C. There is no water or sewer in the 10-ft utility easement between Lots 9 & 8, Blk A, the Ridge Port 4th Addition.

Staff recommends vacating the 20-ft pedestrian access easement between Lots 6 & 7, Block B, the Ridge Port 4th Addition, retaining the 20-foot utility - drainage easement, that is part of the proposed vacated pedestrian easement and accepting the proposed new 10-ft pedestrian access easement between Lots 10 & 11, Block B, the Ridge Port 4th Addition. Staff recommends vacating the 10-ft utility easement between Lots 8 & 9, Block A, the Ridge Port 4th Addition, stopping at its point of intersection with the 20-ft utility easement on the north end of Lots 9 & 8.

Based upon the information available prior to the public hearing, Staff recommends the MAPC make the following findings and recommendation to the City Council:

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time November 14, 2001, which was at least 20 days prior to this public hearing.
2. That private rights will not be injured or endangered by the vacation of the above-described utility easement, and the public will not suffer loss or inconvenience thereby.

3. In justice to the petitioner, the prayer of the petition ought to be approved.

Therefore, the vacation of the utility easement described in the petition should be approved subject to the following conditions

1. Vacate the 20-ft pedestrian access easement between Lots 6 & 7, Block B, the Ridge Port 4th Addition, retaining the 20-foot utility - drainage easement, that is part of the proposed vacated pedestrian easement.
2. Vacate the 10-ft utility easement between Lots 8 & 9, Block A, the Ridge Port 4th Addition, stopping at its point of intersection with the 20-ft utility easement on the north end of Lots 9 & 8.
3. Dedicate by separate instrument a new 10-ft pedestrian access easement between Lots 10 & 11, Block B, the Ridge Port 4th Addition.
4. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
5. All improvements shall be according to City Standards.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. Vacate the 20-ft pedestrian access easement between Lots 6 & 7, Block B, the Ridge Port 4th Addition, retaining the 20-foot utility - drainage easement, that is part of the proposed vacated pedestrian easement.
2. Vacate the 10-ft utility easement between Lots 8 & 9, Block A, the Ridge Port 4th Addition, stopping at its point of intersection with the 20-ft utility easement on the north end of Lots 9 & 8.
3. Dedicate by separate instrument a new 10-ft pedestrian access easement between Lots 10 & 11, Block B, the Ridge Port 4th Addition.
4. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
5. All improvements shall be according to City Standards.

MOTION: To approve, subject to staff comments and citing the findings in their report.

JOHNSON moved, **MARNELL** seconded the motion, and it carried unanimously (10-0).

- 5/4. **VAC2001-00053** – Request to vacate a portion of Amidon Right-of-Way and Drainage Easement, generally located southwest of the Amidon-37th Street North Intersection.

OWNER/APPLICANT: Ridge Port Development c/o Rob Ramseyer

AGENT: Baughman Company c/o Russ Ewy

LEGAL DESCRIPTION: Pedestrian Access Easement:
The southeastern 10-feet of Lot 6 together with the northwestern 10-feet of Lot 7, Block B, Ridge Port 4th Addition, Wichita, Sedgwick County, Kansas.

Utility Easement:
The west 5-feet of Lot 8, and the east 5-feet of Lots 9, Block B, Ridge Port 4th Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located northeast of the 29th Street N – Ridge Road intersection

REASON FOR REQUEST: The applicant proposes replace pedestrian access easement and there are no utilities in the 10-ft easement

CURRENT ZONING: Subject property is zoned TF-3 Two - Family Residential. Properties to the north are zoned TF-3 Two Family Residential. Properties to the south are zoned TF-3 Two Family Residential and SF-5 Single Family Residential. Property to the east is zoned SF-5 Single Family Residential and is designated as Reserve C. Properties to the west (across Ridge Road) are zoned LI Limited Industrial.

The applicants are proposing to vacate an approximately 115-foot x 213-foot portion of the Big Ditch that abuts the south and west sides of their property. The applicants are also proposing to vacate a 20-foot wide bottle necked section of Amidon Ave that abuts

the applicants property on the west and all of Lot 9, Blk 2, Pleasant Valley 2nd Addition. The applicant proposes to incorporate the vacate lands into their property.

Storm Water Management requires retention of the east section of the drainage easement for flood control purposes and the applicant proposes to dedicate the east 30-ft of the easement for that purpose by separate document. There have been no objections from City Departments in regards to the vacation of that section of Amidon as shown on the exhibit, except for the south part of the ROW. Staff recommends vacation of the Amidon ROW, per exhibit and legal description, with the exception of the south corner that extends into the Big Ditch. Staff recommends vacation of the drainage easement with the exception of the east 30-feet of it.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time November 14, 2001, which was at least 20 days prior to this public hearing.

That private rights will not be injured or endangered by the vacation of the above-described utility easement, and the public will not suffer loss or inconvenience thereby.

In justice to the petitioner, the prayer of the petition ought to be approved.

B. Therefore, the vacation of the utility easement described in the petition should be approved subject to the following conditions:

1. Vacate that portion Amidon ROW, per exhibit and legal description, with the exception of the south corner that extends into the Wichita – Valley Center Flood Way, if it is not currently dedicated as part of the Wichita – Valley Center Flood Way, then dedicate by separate instrument as part of the Wichita – Valley Center Flood Way.
2. Vacate the drainage easement, per exhibit and legal description, with the exception of the east 30-feet of it.
3. Dedicate by separate instrument the east 30-ft of the vacated drainage easement as a drainage - access easement.
4. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
5. All improvements shall be according to City Standards.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. Vacate that portion Amidon ROW, per exhibit and legal description, with the exception of the south corner that extends into the Wichita – Valley Center Flood Way, if it is not currently dedicated as part of the Wichita – Valley Center Flood Way, then dedicate by separate instrument as part of the Wichita – Valley Center Flood Way.
2. Vacate the drainage easement, per exhibit and legal description, with the exception of the east 30-feet of it.
3. Dedicate by separate instrument the east 30-ft of the vacated drainage easement as a drainage - access easement.
4. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
5. All improvements shall be according to City Standards.

MOTION: To approve, subject to staff comments and citing the findings in their report.

JOHNSON moved, **MARNELL** seconded the motion, and it carried unanimously (10-0).

5/5. VAC2001-00054 – Request to vacate a portion of an alley, generally located between north 16th Street and North 15th Street – Market-Broadway at Irving Elementary School.

OWNER/APPLICANT: USD 259

AGENT: Joe Hoover

LEGAL DESCRIPTION: That portion of the alley abutting Lots 73 – 84, Powells Addition.

LOCATION: Generally located between 15th Street N – North Broadway – 16th Street N – North Market, Irving Elementary School

REASON FOR REQUEST: The applicant proposes to provide access to a proposed parking lot and a drive for student busing.

CURRENT ZONING: Subject property is zoned B Multi-Family Residential on the west and GC General Commercial on the east. Properties to the north and south are zoned B Multi-Family Residential and GC General Commercial. Property to the east is zoned GC General Commercial. Property to the west is zoned B Multi-Family Residential.

BACKGROUND: The applicant is requesting consideration to vacate a portion of the alley abutting Lots 73-84, Powells Addition. The applicant proposes to provide parking and a drive for student busing. Currently the alley is unpaved and dead ends into the school property. There are 3 residences abutting the alley southwest of the proposed vacation. There is sanitary sewer in the alley

Planning Staff recommends consideration of approval of this request with the applicant providing access to Market for the owners of the properties located on Lots 85, 87, 89, 91, 93 & 95. Powells Addition, which abut the alley on the Market Street side and the southwest portion of the school property.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time November 14, 2001, which was at least 20 days prior to this public hearing.
 2. That private rights will not be injured or endangered by the vacation of the above-described utility easement, and the public will not suffer loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be approved.
- B. Therefore, the vacation of the utility easement described in the petition should be approved subject to the following conditions:
1. There is a sewer line in the alley, retain the alley as a utility easement.
 2. SW Bell and KG&E have utilities in the alley, retain the alley as an easement. If these utilities are relocated or reconstructed they will be at the applicant's expense and new easements to cover the relocated easements will be dedicated by separate instrument.
 3. Provide a public access easement to Market for the owners of the properties located on Lots 85, 87, 89, 91, 93 & 95. Powells Addition, which abut the alley on the Market Street side and the southwest portion of the school property.
 4. All improvements shall be according to City Standards.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. There is a sewer line in the alley, retain the alley as a utility easement.
2. SW Bell and KG&E have utilities in the alley, retain the alley as an easement. If these utilities are relocated or reconstructed they will be at the applicant's expense and new easements to cover the relocated easements will be dedicated by separate instrument.
3. Provide a public access easement to Market for the owners of the properties located on Lots 85, 87, 89, 91, 93 & 95. Powells Addition, which abut the alley on the Market Street side and the southwest portion of the school property.
4. All improvements shall be according to City Standards.

MOTION: To approve, subject to staff comments and citing the findings in their report.

JOHNSON moved, **MARNELL** seconded the motion, and it carried unanimously (10-0).

- 5/6. **VAC2001-00055** – Request to vacate a portion of a front setback, due to an existing encroachment of a garage, generally located southwest of the Greenwich-Harry Intersection.

OWNER/APPLICANT: Michael and Connie O'Leary

AGENT: Kemiller Engineering c/o Kirk Miller

LEGAL DESCRIPTION: Platted 30-foot front building setback line on Lot 17, Block 6, Smithmoor 9th Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located northwest of the Mt Vernon St – Greenwich Road intersection, 11118 East Longlake St.

REASON FOR REQUEST: The applicant has an existing encroachment via a garage.

CURRENT ZONING: Subject property is zoned SF-5 Single Family Residential. Properties to the east, west, north and south are zoned SF-5 Single Family Residential.

The applicant is requesting consideration to vacate a portion of a platted 30-foot front building setback line. The applicant has an existing encroachment caused by a garage, which encroaches 4.9-feet into the 30-foot setback at its deepest point.

Staff recommends vacating 4.9-ft of the 30-ft front building setback, per the metes and bounds description as shown on the exhibit.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time November 14, 2001, which was at least 20 days prior to this public hearing.
 2. That private rights will not be injured or endangered by the vacation of the above-described utility easement, and the public will not suffer loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be approved.
- B. Therefore, the vacation of the utility easement described in the petition should be approved subject to the following conditions:
1. Vacate 4.9-ft of the 30-ft front building setback, per the metes and bounds description as shown on the exhibit.
 2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
 3. All improvements shall be according to City Standards.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. Vacate 4.9-ft of the 30-ft front building setback, per the metes and bounds description as shown on the exhibit.
2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
3. All improvements shall be according to City Standards.

MOTION: To approve, subject to staff comments and citing the findings in their report.

JOHNSON moved, **MARNELL** seconded the motion, and it carried unanimously (10-0).

MICHAELIS Were going to have to speak individually on item 7 and item 8 of the next one, let's take item 6, is there anyone here in the audience wishing to speak on item 6?

GOLTRY We are still 3 minutes away.

KROUT There's a couple of things we can talk about. We could talk about the redevelopment plan for the Central/Hillside TIF. Are there going to be questions do you think?

MCKAY If you're going to talk about that I need to step down, I have a conflict.

MICHAELIS If we went to the back and did items 11 and 12.

KROUT Okay, we can do that.

MICHAELIS Let's take item #11.

11. DR2001-17 – The City of Park City seeks the annexation of properties generally located north of 85th Street North and south of 77th Street South.

KROUT Commissioners this is just a continuation of the annexation of the properties of the north and south edges of Park City in their defined growth area according to the Comprehensive Plan. We would recommend that you move that their annexation is consistent with the growth plan for the County.

MOTION: Approve requested annexation that is consistent with the Comprehensive Plan.

HENTZEN moved, **MCKAY** seconded the motion, and it carried unanimously (10-0).

12. Review and Approve MAPC 2002 meetings calendar.

KROUT We just need a motion to approve the 2002 MAPC calendar. We also handed out the 2002 Subdivision calendar and those are basically the Thursdays before each Planning Commission hearing.

MOTION: Approve the 2002 MAPC and Subdivision calendars.

WARREN moved, **WARNER** seconded the motion, and it carried unanimously (11-0).

MICHAELIS We still have a couple of minutes.

KROUT How about talking about the Comprehensive Plan? Recommendation from the Subdivision Committee is that development in the rural areas of the County all lots will have to be bundled or clustered with considerable open space. Was that your intention?

WARREN This will be difficult to include in the Subdivision Regulations so that it can be followed. The problem will be how can we subdivide land so that it can be farther subdivided in the future.

MARNELL I agree with bundling and clustering concepts. Orderly development and preservation of farmland is important. This would also provide for open space.

BISHOP Would Comprehensive Plan provide for exceptions for building on family farms?

KROUT Subdivision regulations allow for waiver of design standards on a case-by-case basis. We are willing to work on that.

MICHAELIS It would be nice to have some criteria developed that are standard and uniform; so applicants know criteria before sketch plats are developed.

MCKAY We have discussed for 2 or 3 years. We are trying to help the people that want to do the 5 acre tracts, but also help the future growth in the City and County. This would put everybody on an even playing field, whether you are a farmer, developer or builder.

WARNER How is different from the overlay?

MCKAY That is called bundling overlay.

KROUT We have talked about doing it 2 different ways, you can sell off the 5 acres to an owner or leaving part of the bundle of lots. Both options are provided in our draft. I am not hearing that anyone is opposed to leaving it in the plan.

MICHAELIS Let's get back to the agenda and talk about it later.

6. CON2001-00058 – Via Christi Property Services, Inc., c/o David M. Mohr, President, Catholic Diocese of Wichita (Owner) request a Conditional Use to permit ancillary parking on property described as:

The South 140.00 feet of the North 276.53 feet of the East 80.00 feet of Lot 1, Replat of Part of Pineridge Addition to Wichita, Sedgwick County, Kansas; together with the North 136.53 feet of the

East 192.00 feet of Lot 1, Replat of Part of Pineridge Addition, Wichita, Sedgwick County, Kansas.
Generally located South of Grand approximately 200 feet west of Clifton (3205 E. Grand).

BACKGROUND: The applicants are requesting a "Conditional Use" to allow ancillary parking on property zoned "TF-3" Two-Family. The site is located on the south side of Grand approximately 200 feet west of Clifton Avenue. It would provide parking for the adjoining medical office building located along Clifton Avenue, the Clifton Medical Center. Additional parking is needed because of a planned four-story expansion of the Clifton Medical Center.

The northern half of the application area is an existing parking lot with 61 spaces. The Catholic Diocese on behalf of All Saints Catholic Parish Elementary School owns the lot, but Via Christi has a long-term lease for use of a portion of school's parking lot. If this application were approved, the lot would continue to be used by both the school and the medical office patrons. The school also has access to a large parking lot between it and the church. Via Christi has its own parking lot along Clifton that provides the majority of its parking requirements.

In addition, Via Christi has acquired a 140' x 80' tract for expanding the parking lot to the south. The new portion would have approximately 27 spaces and would be for the exclusive use of the medical center patrons. To compensate for the school's loss of playground space, Via Christi has transferred a commensurate tract along Harry to the school.

The site plan shows the proposed parking lot layout of these parking facilities. The ancillary parking located on the "TF-3" property has one direct exit onto Grand and one connection with the parking lot on the medical office center's site.

A preliminary landscape plan proposes a landscape buffer between the school site and the parking lot as required by the Landscape Ordinance but with a substitution of additional shade and ornamental trees for coniferous trees and shrubs. A wrought iron fence would be installed along most of the southern and western edge of the parking lot. The applicants have requested this type of separation between the ancillary parking lot and the school site. They feel the wrought iron fence edged with shade and ornamental trees provides an attractively screened but secure boundary between the two uses.

The surrounding land use consists entirely of office or institutional uses. As previously mentioned, medical offices adjoin the ancillary parking lot to the east. Via Christi St. Joseph Campus is located across Clifton from these offices. More medical offices are located on the north side of Grand, as well as a hotel for visitors to the hospital to the northwest. All Saints Parish School, the church and a daycare facility are located to the south and east.

CASE HISTORY: The property was platted September 8, 1964 as Replat of Part of Pineridge Addition.

ADJACENT ZONING AND LAND USE:

NORTH:	"B"	Medical offices
SOUTH:	"TF-3"	School, playground
EAST:	"LC"	Medical offices, hospital
WEST:	"SF-5"	School, church, daycare

PUBLIC SERVICES: Normal municipal water and sewer services are available. Transportation access is via Grand to Hillside or Clifton.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies the subject tract as "institutional". The adjoining tract is designated as "high density residential", and is in medical office use, which is a permitted use in the "high density residential" zoning district of "B" Multi-Family District. However, this property is zoned "LC" Limited Commercial and could be converted to more intensive uses than would be recommended by the "high density residential" land use category.

RECOMMENDATION: Based on the information available prior to the public hearing, Staff recommends that the request be APPROVED subject to the following conditions:

1. The Conditional Use shall be developed in general conformance with the site plan attached hereto. Any substantial change in the site plan shall require an amendment to this Conditional Use.
2. The ancillary parking area shall be developed in conformance with the requirements of Sec. III-D.6.p of the Unified Zoning Code ("UZC"), all applicable screening, lighting and compatibility requirements of Sec. IV -B of the UZC.
3. The parking area shall comply with all buffering requirements of the Landscape Ordinance of the City of Wichita, except that the required shrubs may be replaced with additional shade or ornamental trees planted at a rate of one shade tree or two ornamental trees for every ten shrubs, and no evergreen trees shall be required. A full landscape plan in general conformance with the landscape concept plan attached hereto shall be submitted for review and approval by the Planning Director prior to issuance of a building permit.
4. A screening fence per the requirements of Sec. IV -B of the UZC or a wrought iron fence of no less than six or more than eight feet in height shall be provided along the southern and western edge of the ancillary parking lot, except that no fencing shall be required for the 140 feet extending south from Grand on the western edge of the lot since this is the portion in continuing use by All Saints Catholic Parish School.
5. Development of the Conditional Use shall be commenced within one year from approval or the Conditional Use shall be null and void.

6. Any violation of these conditions shall render this Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The ancillary parking lot is zoned "TF-3" Two-Family Residential, which requires a Conditional Use when the adjoining use (medical office) and zoning ("LC" Limited Commercial) is more intensive than that allowed on the "TF-3" property. The proposed ancillary parking lot divides the office/hospital uses to the east and north from the institutional uses (the school, church, and daycare) to the south and east.
2. The suitability of the subject property for the uses to which it has been restricted: The property could continue to be used for parking and playground for All Saints Catholic Parish School.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed ancillary parking lot is part of land swap and lease arrangement between Via Christi Property Services and All Saints. It gives the medical offices needed parking, while the land from Via Christi provides replacement parking and playground space for the school. The proposed fencing and landscaping is a modification of normal screening and landscaping requirements, with a tradeoff of additional shade and ornamental trees that is coupled with a wrought iron fence instead of the use of shrubs and coniferous trees as part of the buffer. The proposed plan has been reviewed and recommended by both parties, which indicates that those parties that would be most affected by the ancillary parking Conditional Use are in agreement with the proposed use.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: Parking in conjunction with an institutional use, such as the school, would be a permitted use per the Unified Zoning Code and would be in conformance with the *Comprehensive Plan*. However, its use in conjunction with an office use is a slight increase in land use intensity. The *Comprehensive Plan* designates the adjoining parcel currently in office use as "high density residential". Its use for medical office is in conformance, but many permitted uses in the "LC" district would be of greater intensity than recommended by the *Comprehensive Plan*.
5. Length of the time property has remained vacant as zoned: The property is currently occupied by parking lot for the school and by playground space.
6. Impact of the proposed development on community facilities: The proposed development might generate a small traffic increase in traffic due to the addition of 27 parking spaces. Access is limited to one point on Grand, with the other two exits from the parking lot being via the current exits of the parking lot to the east. The proposed use should not exert any significant increase on other facilities.

MICHAELIS This has been recommended for approval. The first thing I'll do is ask the applicant, are you in agreement with staff comments? Is there anyone in the audience wishing to speak on item #6? Is there anyone on the Planning Commission that wants to speak on item #6?

MOTION: To approve, subject to staff comments and citing the findings in their report.

JOHNSON moved, **HENTZEN** seconded the motion, and it carried unanimously (10-0).

7. **ZON2001-00066** – Zone change from "SF-5" Single-Family Residential and right-of-way to "GC" General Commercial on property described as:

That part of Government Lot 5, in Section 9, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas described as follows: Commencing at a point 600 feet West of the Southeast corner of said Lot 5, thence West along the South line of said Lot 5, for a distance of 102 feet to a point, thence North parallel with the East line of said Lot 5, to a point on the right bank (South bank) of the Arkansas River, thence Southeasterly along the right bank of the Arkansas River to a point due North of the point of beginning, thence South approximately 866 feet to the point of beginning.

AND

A tract of land in the Government Lot 5 of Section 9, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas described as follows: Commencing at the Southeast corner of said Lot, thence on an assumed bearing of South 89°38'00" W, 727.00 feet along the South line of said Lot; thence North 02°26'36" East, 65.08 feet to the point of beginning; thence North 02°26'36" East, 436.96 feet; thence South 23°37'33" West, 338.21'; thence South 07°09'18" West, 128.55 feet to the North right of way line of existing MacArthur Road; thence North 89°38'00" East, 132.93 feet along said right of way line to the place of beginning. Generally located North of MacArthur and east of I-135.

The subject property is located north of MacArthur and east of I-135 at 1002 E. MacArthur. The subject property contains a 1.33 acre unplatted tract that is zoned "SF-5" Single-Family Residential and a 1.04 acre unplatted tract that designated as right-of-way on the Official Zoning Map but is held in private ownership by the applicant.

The subject property is currently developed with a single-family residence as well as a vehicle storage yard and a self-service storage warehouse business. A review of aerial photographs indicates that the storage business was established on the property between 1977 and 1983 and steadily grew in scale and intensity until it reached its current status between 1992 and 1997.

Use of the subject property for a storage business is illegal under the property's current zoning; however, no complaints have been received by the Office of Central Inspection regarding the illegal use of the property. The applicant has requested "GC" General Commercial zoning, which is the first zoning district that permits both the vehicle storage yard and self-service storage warehouse uses of the property.

In addition to receiving "GC" General Commercial zoning, the applicant will need to comply with the screening standards of the Unified Zoning Code and the Landscape Ordinance requirements. The screening standards for outdoor storage areas require a decorative fence, evergreen vegetation, or landscaped earth berms where adjacent to a residential zoning district or public street right-of-way. For the subject property, screening would be required along the south and west property lines. Since I-135 is elevated at this location, a decorative fence or landscaped earth berms along the west property line will not screen the outside storage area from view from I-135; therefore, planning staff recommends a Protective Overlay to require screening along the west property line to be provided by evergreen vegetation. The Landscape Ordinance requires a landscaped street yard along arterial streets. For the subject property, a 20-foot deep yard landscaped with 11 shade trees (or the equivalent) would be required along MacArthur.

The character of the surrounding area is mixed with commercial uses to the east, a manufactured home park to the south, and major barriers to the north (Arkansas River) and west (I-135). The property east of the site is zoned "GC" General Commercial and is developed with a self-service storage warehouse and a body shop. The property south the site across MacArthur is zoned "LC" Limited Commercial and "MH" Manufactured Housing and is developed with a manufactured home park with remaining vacant land currently marketed for commercial development.

CASE HISTORY: The property is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	Right-of-way	Arkansas River
EAST:	"GC"	Self-service storage warehouse; body shop
SOUTH:	"MH" & "LC"	Manufactured home park; vacant commercial
WEST:	Right-of-way	I-135

PUBLIC SERVICES: Public sanitary sewer and water service are currently available to this location. The site has access to MacArthur, a five-lane arterial street. Current traffic volumes on MacArthur are approximately 14,000 vehicles per day. The 2030 Transportation Plan projects that traffic on MacArthur will increase to approximately 17,000 vehicles per day.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "commercial" development. The Commercial Locational Guidelines recommend that commercial sites should be located adjacent to arterial streets and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas.

RECOMMENDATION: Based on the information available prior to the public hearing, MAPD staff recommends the application be **APPROVED**, subject to platting within one year and subject to the following provision of a Protective Overlay District:

1. Screening along the west property line adjacent to the I-135 right-of-way shall be provided in the form of evergreen vegetation. The evergreen vegetation shall be planted and maintained in accordance with a landscape plan approved by the Planning Director and shall consist of plant materials that, at maturity, provide a solid hedge of evergreen vegetation with a minimum height of 30 feet.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Adjacent properties are zoned "LC" Limited Commercial, "GC", General Commercial and "MH" Manufactured Housing. The character and uses on surrounding sites are commercial, including storage uses, and medium-density residential. Storage uses on the subject property are consistent with the zoning, uses, and character of the neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property is zoned "SF-5" Single-Family Residential, which does not permit storage uses. Vehicle storage yards are first permitted in the "GC" General Commercial zoning district. Given the site's proximity to existing storage uses and the I-135 expressway and the higher-density of adjacent residential uses, it is not likely that the site would redevelop with single-family residential uses.
3. Extent to which removal of the restrictions will detrimentally affect nearby property. Detrimental affects should be minimized by the screening, lighting, and compatibility standards of the Unified Zoning Code and the landscaped street yard, parking lot screening, and buffer requirements of the Landscape Ordinance, which should limit noise, lighting, and other activity from adversely impacting surrounding residential areas. Additionally, the subject property is separated by a major barriers to the north (Arkansas River) and west (I-135) from lower intensity uses.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "commercial" development. The subject property conforms to the Locational Guidelines regarding commercial development.

5. Impact of the proposed development on community facilities: No negative impacts on community facilities were identified at the time this report was prepared.

COULTER I have an association with the applicants on this case and some people might consider it a conflict of interest, so I'm going to step down.

KROUT Actually you should ask the Chair for permission to step down and I think that will allow you to abstain, and that way we won't count you as voting affirmatively, according to Joe Lang, and we'll talk about that at a later time.

KNEBEL, Planning Staff, presented staff comments. Commissioners there is a little disagreement on the conditions of approval with the applicant on this particular case. I'll go through that particular aspect of the case so that you'll have a understanding of it. The District Advisory Board heard this last night and they did agree with the applicant's position on this. That issue is the screening of the use.

WARREN Would Payless Cashways be across the street south?

KNEBEL No, across the street south is a mobile home park, between Broadway and Hydraulic.

FRANK OJILE on behalf of the applicant, Ralph Shaver, who also appears with me. We would ask that you approve the zoning change, but leave out the evergreen trees as recommended by staff.

BISHOP If the requirement to create a vegetation screen is not followed, would there be a different type of screening?

KROUT No, because the freeway is elevated. The normal screening requirement for outside storage would not apply, it only applies to at grade roads. Is that right, Scott, because of the elevation change, that the screening didn't apply?

KNEBEL I don't find anything in the code that would say that it wouldn't be required. I think the code does indicate that you would still have to provide a screening fence or berm or some sort of screening.

WARNER This may not be possible, but if he's concerned about the planting taking up space for parking and destroying vehicles. Is it possible to have the plantings in the right-of-way?

KROUT I think we may have done that on a situation with Boeing with their C & D Landfill, I think that it's possible. The only problem would be working out the initial maintenance.

MCKAY Was that KDOT right-of-way.

KROUT Yes, KDOT right-of-way.

MARNELL Maybe this is a question for Scott or Marvin, does this mean planning 30-foot trees that are 30 foot today?

KROUT No.

WARREN Asked the applicant if you had to comply with the ordinance as a condition of this approval, would you prefer a fence or would you prefer plantings?

OJILE I would rather have a fence. There's already a 6-foot fence there that belongs to the State.

MOTION: To approve request, without screening.

HENTZEN moved, **ANDERSON** seconded the motion.

BISHOP My question then to the gentlemen that made the motion is the same as earlier: does that mean no screening at all?

HENTZEN That's right.

BARFIELD Marvin, I thought I heard you say that the ordinance required screening of some type. Am I mistaken?

KROUT It appears that it does, unless he goes to the Board of Zoning Appeals to get a Variance

MICHAELIS That would make the motion not a valid motion.

KROUT No, because what the staff did was recommend a requirement for landscaping; meaning that's the way he should satisfy the screening requirement, by landscaping it. If you delete it per the motion that means the applicant will still have to deal with the zoning code. He could decide to landscape it to meet the requirements, or to put a 6 foot screening wall in, or to try to work with KDOT, or go to the Board of Zoning Appeals.

MARNELL Question for Marvin, will the State routinely approve planting of trees like that on their right-of-way in situations like this?

KROUT I think they could work out the maintenance issues, I believe we did work that issue out with Boeing along the Turnpike. It is a possibility.

WARREN I think I may oppose that motion too for the same reason. First, I don't think there's really any big problem with them getting KDOT's approval; secondly, the eastern red cedar requires very little attention.

HENTZEN In support of my motion, I'm going to comment that any of the regulations that we write, and try to follow, it doesn't really say it in the regulations. But in my judgment, common sense is not prohibited and why are we hearing these things if we can't apply common sense.

MARNELL I think my comment that would be I think we are applying common sense because if we don't do this what will happen is the applicant will build a wood fence 6 foot high to comply with the landscape ordinance. It makes no sense at all because you driving by and it's screening. The trees are probably going to be are going to be a reasonable compromise for that, and I would assume that you are not having to transplant trees, so it's not going to be an economic burden.

MICHAELIS I can't support the motion without any kind of screening at all.

BARFIELD The 6 foot fence would be fine for cosmetics, but for actual screening it would not be effective. I think I agree with Marnell that this 6- foot fence would be a waste of time and money. I would like to make a substitute motion.

SUBSTITUTE MOTION: Approve as staff recommended.

BARFIELD moved, **BISHOP** seconded the motion.

MARNELL Asked for clarification of the motion maker if that was for the plantings to be on the state right-of-way, and the Planning Department to assist in that.

BARFIELD That is correct.

ANDERSON I agree. I think it's ridiculous to make owners to do this based on the topography.

HENTZEN Might I ask Mr. Barfield, could you or would you accept the idea that the applicant, as Mr. Krout explained, has the option of going to the BZA to get relieved of the landscape requirement, was that one of the options?

KROUT Relieved of the screening requirements? I think if that's the intent of your motion, that you should put it in the motion; otherwise he'd be required to do landscaping and there wouldn't be a way for BZA to lift that restriction.

HENTZEN Would you include the opportunity for him to go to the BZA to get relieved of the screening requirements?

BARFIELD No, I don't think I want to include that in the motion.

MCKAY Clarification says on the last sentence 1, minimum height of 30 feet. That is not what we have been talking about.

BARFIELD I clearly said with the exception of number 1, we make the change of number 1.

MCKAY What would you change in number 1?

BARFIELD My motion was the trees would grow up to 30 feet.

BISHOP What if the State does not approve, what happens?

BARFIELD CLARIFIED SUBSTITUTE MOTION: Approve as staff recommended with the exception of number 1. The solid hedge of evergreen grow to a height of 30 feet of maturity may be on the State side of the property.

WARNER Is this motion that the evergreens be planted on the applicant's property?

BARFIELD No, on the State property.

BISHOP That leads us to the question of what happens if the State doesn't approve, which seems like it would make that provision pretty much unenforceable and be able to take to BZA.

BARFIELD moved, **BISHOP** seconded the motion, and it carried (9-2) **ANDERSON, HENTZEN** opposed .

MICHAELIS Item 8a and 8b are we taking together or separate? 8b was recommended for deferral.

KROUT We can take them together, and Jess can explain the recommended conditions that were the reason for our deferral. I think we reached an agreement with the applicant on those.

- 8a. **ZON2001-00067** – C & J Development LLC, c/o Jay Russell (owner) request zone change from "RR" Rural Residential to "SF-10" Single-Family Residential on property described as:

WARREN moved, **WARNER** seconded the motion, and it carried unanimously (11-0).

- 8b. **CON2001-00059** - C & J Development LLC, c/o Jay Russell (owner) request a Conditional Use to allow for an on site major utility (a sewage treatment plant) on property described as:

The North Half of the Southeast Quarter of Section 16, Township 28 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas. Generally located North of 47th Street South and west of Greenwich (4415 South Greenwich).

The application area consists of an 80.43-acre, unplatted parcel on the west side of Greenwich Road, 1,300 feet north of 47th Street South. The property is currently zoned "RR" Rural Residential, but several acres near Greenwich are developed with a manufactured home park, and the property is authorized for 40 acres to be developed as a mobile home park (see case history). The applicant is requesting "SF-10" zoning in order to develop a residential subdivision with an average lot size of 13,000 square feet. Soils in this area typically won't support septic systems, and on-site lagoons require a minimum lot size of 4.5 acres. To achieve an urban density in this location, where apparently it is not economically feasible to extend existing municipal sewer systems, an atypical solution to handling wastewater is required. Associated with this zone change request is a Conditional Use request (CON2001-59) to allow a "major utility" - a "package" type sewage treatment plant sized to serve this proposed subdivision. Surrounding the application area in all directions is "RR" zoned property; the surrounding properties are all developed with single-family residences on large lots or agricultural uses.

CASE HISTORY: The application area has been approved by MAPC's Subdivision Committee for a preliminary plat; the plat contains 129 lots with an approximate average lot size of 13,000 square feet. Approximately 18 years ago, MAPC and the County Commission, as part of the expansion of county zoning into an expanded three mile radius of Wichita, granted the then-owner a "Conditional Use" for a mobile home park on the east half of the application area.

ADJACENT ZONING AND LAND USE:

NORTH: "RR"	single family residences and agriculture
SOUTH: "RR"	single family residences and agriculture
EAST: "RR"	single family residences and agriculture
WEST: "RR"	agriculture

PUBLIC SERVICES: The application area is located along Greenwich Road, a two-lane section line road. The traffic count in July of 2000 along this section of Greenwich was 2,941 cars per day (ADTs). The projected traffic volume for 2030 is 5,178 cars per day, although that projection did not contemplate such intensive use of this 80 acres. The proposed development can be expected to add another 1,300 daily trips on Greenwich, still within the capacity of the two lanes. No street projects are included in the C.I.P.; and the 2030 *Wichita-Sedgwick County Transportation Plan* shows this section of Greenwich remaining a two-lane arterial. The property currently has two vehicular access points. The existing half-width right-of-way for Maize Road is 60 feet. The property currently has rural water available, and currently uses a community lagoon sewage system.

CONFORMANCE TO PLANS/POLICIES: The "Sedgwick County Development Guide" and the "Wichita Land Use Guide" of the 1999 *Update to the Wichita-Sedgwick County Comprehensive Plan* both identify the application area as "rural," and therefore outside the 30 year Wichita urban service boundary and the small city growth areas. The 1999 *Update to the Wichita-Sedgwick County Comprehensive Plan* further defines the land use category of "rural" as "... intended to accommodate agricultural uses, rural based uses that are no more offensive than normal agricultural uses, and large lot residential subdivisions with provisions for future water and sewer services."

The Plan calls for "encouraging future growth and development to areas served by existing public facilities and services, or which can be served economically and promote compact and contiguous development." Developing this property at urban density constitutes a leap frogging of the current edges of development.

The Plan calls for "encouraging agricultural activities." MAPD is concerned that developments such as these will not have any significant impact in reducing the demand for large (5 to 10 acre) lots in rural areas, and may add to the daily operational problems that farmers face from nearby developments.

The Unified Zoning Code designates the "RR" and "SF-20" districts as generally compatible with the "Rural" designation of the *Comprehensive Plan*. The Unified Zoning Code designates the "SF-10" district as generally compatible with the "Low Density Residential" designation of the *Comprehensive Plan*, which is intended for "urban" areas where a full array of public services are available.

RECOMMENDATION: Through the approval of this zone change request and Conditional Use, Sedgwick County will be embarking on a path that is full of unknowns. There is no local experience and limited local knowledge on the construction and operation/maintenance of the proposed "alternative sewage treatment system": the ability of the treatment facility to control pollution, long-term maintenance costs of both collection and treatment facilities, and need for eventual "replacement" of all or parts of the

system. Previous experiments in this County that allowed urban-density developments through package sewage treatment plants proved to be disastrous -- although admittedly part of the problem was the inadequate maintenance provided by the homeowner associations that were responsible for maintenance, whereas Sedgwick County is apparently going to take on the ultimate responsibility for operating any plants like this in the future. Certainly caution and history dictate that the approval of these systems be very limited in the foreseeable future, to a few pilot projects, with careful and long-term monitoring, until they are proven to be reliable and cost-effective. Because this particular site has zoning authority and a KDHE permit for a lagoon that would otherwise enable a mobile home park to be built at this location, this is the ideal location for such a pilot project, and that is why MAPD staff is recommending approval of this particular set of requests.

But beyond the issue of sewage treatment, there are a host of other issues that this request raises, as the MAPC and County Commission look ahead to the prospect of other similar requests. The orderly development of Sedgwick County over the past decades is largely a result of consistent policies that have guided most development to take place at the edge of the municipalities -- not just Wichita, but Derby, Park City, Haysville, and the other smaller municipalities that have taken on the responsibility of extending "full urban services" to these areas. The County has allowed large lot development to occur, but at such a low density that it has limited the demands for improved public services to date. Even in the limited instances in the Four Mile Creek basin where urban density residential zoning was granted by the County, Wichita water was already available, and it was clear that the City would eventually be annexing these areas.

If approved and developed, this proposed development will establish a new precedent, by being the first urban density subdivision without either municipal water or sewer service. The primary market for these lots and the homes to be built on these lots is not likely to be households who would otherwise live on 5 or 10-acre lots; instead, it is likely to be the very same households who would otherwise be shopping for lots and homes in Wichita and Derby and the other cities of Sedgwick County. By spreading that urban density home market thinner, these cities are likely to find their market share diminished, and the tax revenues from new development, needed to pay off the sunk costs of major infrastructure investments like their municipal sewage treatment plants, reduced from original projections. Townships will need to provide continuing maintenance for paved roads for which they have little experience or equipment.

At the same time, a burgeoning expansion of urban density subdivisions in the unincorporated areas is going to present increased challenges to Sedgwick County government. These "urban dwellers in the country" are going to be even more expectant and more vocal about improving public services, from roads to drainage to water pressure to emergency services, that are now geared to a low density population. And the scattered nature of these subdivisions is going to make service improvements very expensive on a per-capita basis -- unless the County attempts to spread those costs over the tax base of the cities as well, which will surely raise strong political opposition.

Because the property could expand the existing mobile home park to 40 acres, staff feels that the proposed development would be a better alternative for the application area and the surrounding areas. Therefore, based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting within one year.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The properties surrounding the application area are all zoned "RR" and developed with single-family residential and agricultural uses. The proposed development itself will be a minor feature in this landscape. The development enabled by the treatment plant would be more in character with the surrounding properties than the mobile home park that is permitted to expand to 40 acres under the authorized zoning, although the proposed density is still much higher than other developments in the vicinity.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "RR" Rural Residential, which primarily permits large lot residential development, with a Conditional Use that allows a mobile home park on 40 of the 80 acres. The site could be developed as currently zoned, although a mobile home park would be higher in density and more out of character than the proposed use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Development of the property under "SF-10" zoning should have less detrimental effects on surrounding land uses than the potential effects of a 40-acre mobile home park.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The requested change in zoning classification is not in conformance with the Comprehensive Plan "Wichita Land Use Guide" map, or the "Sedgwick County Development Guide" map, as indicated above.
5. Impact of the proposed development on community facilities: A zone change at this location on Greenwich Road will substantially increase traffic, but no more than the alternative use as a 40-acre mobile home park, and not beyond the capacity of this roadway. Improvements to Greenwich at the subdivision entrance are recommended by staff as part of the platting conditions. Approval of this zone change request would enable the development of a substantial size subdivision that, if it sets a precedent for similar requests in the future, likely will create a new wave of demands in the unincorporated area for improved roads, utilities, emergency services, etc., that are normally provided to urban areas.

JESS MCNEELY, Planning Staff, presented staff recommendations.

JAY RUSSELL, Applicant, we've got some surrounding neighbors here that would very much like to understand a little bit of how these alternative sewage treatment facilities work.

MICHAELIS That's item 8b we are on 8a right now; this is simply a zone change.

RUSSELL We don't have any problems on that.

JIM MARTIN I have an interest on property across the street on Greenwich Road. I would just like to make this a matter of the record that I spoke with Mr. Russell before we came in today, and he indicated that his intent not to allow pre-manufactured homes be place on this site. He plans to build homes single-family residential. Have I misrepresented that?

KROUT Note to let the record show: there is nothing in the Zoning Code that would allow the Planning Commission or County Commission to set home prices or to prevent a double wide manufactured home on a permanent foundation from going in on any lot zoned single-family.

NICOLE MCKINLEY I live south of the area they are planning to change. I have one question about the natural creek that runs through, and if they are doing anything to change that.

RUSSELL Channels will be redirected in some manner, but the water will come back out and leave the property at the same point.

KROUT When you say the channel will be redirected, does that mean you are going to go in there and widen and relocate the banks and beds of the channel in some places?

RUSSELL Yes.

KROUT In the future, developers will be under more scrutiny to maintain the natural creek with its natural banks and the natural buffer of vegetation for 40 to 100 ft on either side.

MOTION: To approve 8a, subject to staff comments and citing the findings in their report.

WARREN moved **WARNER** second the motion and it carried unanimously (11-0).

MCNEELY, Planning Staff, presented staff report for 8b.

CHRIS BOHM, Engineer for the applicant, gave a description of how the system would work.

BISHOP I'd like to ask a question about maintenance. What type of maintenance would be involved with the system like this? Would you need to have one full-time person, two full-time people, one part-time person. What would be involved in terms of maintenance?

BOHM If this system moves forward, then Sedgwick County would have to form a benefit district.

BISHOP Let me see if I understand this correctly, the County would create a benefit district.

BOHM Yes.

BISHOP But the homeowners would pay for it totally.

BOHM It would be done under special assessments.

BISHOP What expense, if any, would the average taxpayer who resides in Sedgwick County be paying for this system?

BOHM None. The benefit district would be self-funding.

KROUT This would be similar to the 4 mile Creek District that the County set up similar to other sewer districts that the County has set up and Jim Weber is here to answer any further questions.

BISHOP What would be the responsibility will the Homeowners Association have in regard to this sewer system?

BOHM They should have none, it will be the responsibility of Sedgwick County.

HETZEN You mentioned a check valve, is that for each property? Where would it be located? Would it be in their basement, outside their house?

BOHM As the tank system came into, if there were check valves you could put a check valve by the home. The logical place would be after the tank.

HENTZEN On West Kellogg, Miles Lakewood Addition, those people who had flap valves so to speak in their sewer line during the flood on Halloween, most of the flap valves did not work, the people who had manually operated check valves who could go down in their basement and make sure that back flow couldn't get in did not get a drop in their basement.

BOHM That is a design feature, we are not at that point.

WARNER In the future, if the public sewer system gets out to this location, will this subdivision continue with their own system? If not, is this system compatible where you can tie into the main.

BOHM Since all the affluent, collects into 1 line, it will ultimately make it to the large storage tanks.

WARNER These tank new need pumps.

BOHM Average is little over 10 years. The County has not outlined all details.

JAY RUSSELL Applicant, Concerned about item that Wichita has to approve, because it is in the Derby drainage basin. The City may service in future. I would not want that to be the norm because some may be outside their area.

JIM WEBER, Deputy Director Public Works for the County, Concerned about condition, number 2. Work approval is a concern; let's change to refer to sewer front loaded for review. For Item 6, utility easement dedication we prefer the tank in a sanitary sewer easement. Lets refer to sewer front loaded. Nervous about specific language.

HENTZEN Tanks in font of houses, they would be concrete?

WEBER Fiberglass or concrete.

HENTZEN Would the top of them be where you walk across them?

WEBER The ones that we looked at, You can mow right over them, walk over them, you do have to have somewhere you have to have a control panel somewhere. The only thing we need to work out is how far can the control panel be from the tank. They are unobtrusive structures, 18" above grade.

HENTZEN What would be the diameter for the top?

WEBER It's probably 18-24 inches. The hatch coming up.

MCKAY Can that be taken care of at the platting?

WEBER I personally think it can be. The plat is pretty well along. Before we final that out, I'd like to work it with the platting; we can work it either way

WARREN We are approving a sewer permit, not anything more. The approval is still subject to KDHE, Engineer, etc.

WEBER To do this you will have to go through the process of creating a County Sewer district.

WARREN I have no problem in voting for this project.

BARFIELD Marvin, staff is recommending deferral would you have any idea as to how long you'd be talking about?

KROUT When we wrote this last Friday we have not developed conditions of approval, and now we have. So we are recommending approval subject to those conditions. I don't have a problem deleting item #6.

BARFIELD For clarification purposes, when you say you still want the City involved, but then your last comment was this. So are you saying this one or future?

KROUT You'll probably have a Conditional Use that you are going to look at for a sewer plant. That's a half a mile south of Bentley. That may be filed in the next month of two, but we will also be reviewing.

MARNELL If City objects, the County does not, I don't think the City should have approval right. If they object after their meetings with the County, since this is the County's authority. That's why I don't think it should be approved, just review it at the very most, then they can object to the State.

WARREN I agree.

CECIL MASTERS I live at 7711 S. Greenwich Road, Derby, I own property directly south of this project, I don't know if I'm for it or against. A lagoon, I want to lagoon my home also. When it rains it goes over my property. That will put more water on my property. What happens to all the water that naturally runs off the property?

BOHM The discharge will flow off, 10 gallons at a time.

MASTERS With 129 homes?

BOHM It is steady; it circulates to the sand filter.

MASTER How much of the water will run off on my property?

JIM MARTIN 4300 South Greenwich Road. I have a question. Will each property have a filtering system? Do you have to have a certain number of resident to make this work? What is the likely hood of the smelling of the main plant?

MICHAELIS I think that one has already been answered.

BOHM Do you want me to address the drainage also?

MICHAELIS Yes.

BOHM Let's start with the drainage. During the platting process, we have to submit a drainage plan and the requirements that we have as an Engineer for an applicant. We look at the applicant as it exists and the water that flows through the property today with none developed as it sits right now, and we look at the quantity of water in the various different return periods of storm. Question on odor, there's no odor. If you take a stick down and drag up from the bottom there is because it's anaerobic; the filter itself is aerobic. The other question, the filter system itself, you want to size each filter, it's done in fazes. If the developer would do 20 lots for phase 1 we'd size the sand filter for a 20 lot configuration.

SHELLING We store the rain water, odor is like a lagoon on your property. Will I detect an odor if the filter does not operate?

BOHM You should not smell anything.

BILL COPLAND I live at 4135, just north of there. There are a couple of problems I have. I have horses and wells. I counted 135 wells that you are going to put on rural water the water out there is not that powerful anyway. The land, the way it sits, this is down and you are going back up a hill. You will pump into a three inch pipe, electricity goes out quite a bit there. What about the plastic tank, farm implements, within a 5 to 10 year will crack and deteriorate. Will those be checked? I have a concern about that.

MICHAELIS As far as electricity going out, Mr. Bohm just answered that. There will be none because they have individual storage tanks.

MOTION: To approve, subject to the staff comments with some changes, eliminate number 6, and on requirement number 2, where it says collection system design, I would change that to should be reviewed by the City of Wichita Water and Sewer Department.

MARNELL moved, **HENTZEN** seconded the motion, and it carried (10-1) **BISHOP** opposed.

MICHAELIS Back up to item 4-3. We missed a technicality on the number of exits.

KROUT Item 4-3 is the Day Reporting Center. At the Subdivision Committee, we reported that the staff and applicant had agreed to 5 openings on this tract, it's a tract that has existing buildings and cut up by railroad spur and drainage and already had more openings on the site. The staff was not counting on opening an existing opening at the far eastern parcel which at the only location where the existing building could be served. The staff is correcting our recommendation to 6 openings instead of 5 openings, and we would ask you to vote to modify that condition of approval to allow 6 openings instead of 5.

MOTION: To modify the motion.

WARREN moved, **WARNER** seconded the motion, and it carried unanimously (11-0).

9. Review of Redevelopment Plan for Central/Hillside Tax Increment Financing District for Consistency with Comprehensive Plan.

MCKAY I own property within this Tax Increment Financing Area. I have a conflict of interest and I will step down.

MICHAELIS Do you want to ask that your vote not be counted as an abstention?

MCKAY Yes.

ALAN BELL Economic Development Director for The City of Wichita. State Law generally gives city authority to establish redevelopment districts for the purpose of providing Tax Increment Financing as a tool for economic development for redevelopment of older areas within cities. The State Law requires a series of steps, legal procedures that need to be followed in order to do this. This includes consultation with the local Planning Commission and obtaining a finding before proceeding that the local redevelopment plan is consistent with the Comprehensive Plan. The City Council adopted an ordinance establishing a redevelopment district for the area we refer to as Central and Hillside redevelopment district, generally in the area of Wesley Hospital.. The district boundaries are not clear, and the parcels in the Wesley area are pretty irregular. Renderings shown of what is being purposed. The City had an interest, based on neighborhood concerns, to move Wesley Motor Inn to the south side of Central, instead of the south side of Edgemont Place. The City needed to offer the hotel developer the same land deal that the hospital was

offering; making it an equal trade. The site will be subdivided into 4 parcel – hotel, Walgreens Drugstore, retail strip center, daycare center or medical offices. The drainage ditch will be piped as a Public Works project. The City will pay 25% of the demolition costs for the 'Blue Goose'; acquire the land for the hotel property and pay for landscaping. Property values and taxes along Lorraine Street should not increase as a result of being included in the TIF district, but they may increase because of their proximity to a large-scale redevelopment district. Lorraine street, why include, is it included, will property value go up. I believe the answer is no. If this becomes a hot real-estate area, cost will go up. It has nothing to do with tax increment except where actual development occurs.

ANDERSON How many Tax Increment districts do we now have?

BELL There are 2 kinds of Tax Increment financing district, 1 is environmental and we have 2. For economic development; there are currently 5 established, and 3 that are active. Bonds will be limited to 15 years. We want to keep it short and return them to a tax paying entity. Wesley is a for profit, and they have not asked for IRB's. The bonds are expected to be retired in less than 7 years.

HENTZEN Won't it be a nightmare for County Clerk to collect sales tax in the future if these properties receive a current exemption?

BELL City is precluded by ordinance to collect sales tax for streets, roads, bridges and property tax relief.

BARFIELD To the best of your knowledge, will the stoplight at Rutan and Central still be in place?

BELL That's a question I'm not real qualified to answer. I know that we talked about a need for a crosswalk. I understand Wesley will move their main entrance to the southeast part of the campus, facing that intersection of Central and Rutan.

BARFIELD With that in mind, with a stoplight being at Central and Rutan, a stoplight at Hillside and Central, I'd be very disappointed to see a crosswalk in that area that would interfere with traffic.

BELL If there was a light at Central and Rutan, there would not be a need for a pedestrian crosswalk. If a light goes in at Central and Rutan, a pedestrian crosswalk would come out.

ANDERSON Who developed this Tax Increment District?

BELL We started with the developer that included the Hospital, Hotel Developer, General Developer of the area, myself, and the City Manager.

MARNELL The purpose of this today is to review to decide whether or not this complies with the Comprehensive Plan.

MOTION: We find that the redevelopment plan is compatible with the Comprehensive Plan.

MARNELL moved, **BISHOP** seconded the motion, and it carried unanimously (10-0-1) **MCKAY** abstained.

ANDERSON I think the recommendation by the Planning Commission that this is not conflict with the Comprehensive Plan is fine, this is a standard recommendation that we make. I for myself I wouldn't have any idea in terms of aspect of the Comprehensive Plan that this might conflict with or not conflict with. I have a little difficulty voting for this when I don't even know what aspects it might conflict. This is a standard recommendation by the Planning Commission and has been historically for years, I've never understood it.

10. Discussion on voting and abstention by Assistant City Attorney Joe Lang.

KROUT Commissioners, because we had some discussion about voting in our bylaws and what they do mean and whether or not someone who is abstaining should be counted as an affirmative vote or not, we asked Joe Lang to come and tell us what we should be doing.

JOE LANG, City Attorney's Office, we've had visits from Marvin's staff relative to both Planning Commission and BZA matters on abstentions. I'll just outline what we feel the City Ordinance in your bylaws set out in this matter and see if there are any questions.

MICHAELIS Can we limit it to our bylaws? Our bylaws say that we are to follow Roberts Rules of Order, unless we choose to amend our bylaws. That is our issue of concern.

LANG I'll address what's applicable to this Board. As a general rule, for all boards, you are required to vote on all matters that come before the Board. With the policy determination, it's discharge of your duties as appointed official to hear matters and decide them, not to avoid controversial issues, avoid or those that might not get you reappointed and that sort of thing. Abstentions are discouraged, along with that policy in your bylaw s (9c) it states that silence on a vote is recorded in the affirmative. This is a routine matter, your recording secretary records everything as a yes vote, unless she hears someone say a nay in a non recording vote. This is routine again with all Boards, if someone doesn't speak up very loudly, they are going to be counted as an affirmative vote. Now there's an exception, this is in your bylaws (9c) as well as City Policy for all Boards is, that you can request permission to refrain from voting if you have a conflict of interest or in all of the matters that are in (10b) of your bylaws that's where you have

substantial interest, you've expressed individual opinion, you own property within the notification area. If you advise the Chair and ask for permission to abstain, then your silence is recorded as a abstention, not as an affirmative vote. If someone does not speak up and get permission from the Chair to abstain, then your abstention is still counted as an affirmative vote.

ANDERSON Where are you reading from?

LANG In your bylaws (9c).

ANDERSON that is only in the case of a conflict of interest.

LANG The conflict of interests are listed in 10b. Members are not able to participate or vote. When they have a substantial interest, expressed an opinion on a quasi-judicial matter, own property or is a prospective purchaser of property included in an application, or owns property in the statutory required notification area. You are prohibited from voting, but must request the Chair's permission to abstain.

MICHAELIS In Roberts Rules of Order, there is no abstention. An abstention is a vote in the prevailing manner.

LANG The ordinances and bylaws override that; Roberts is only used there is nothing else to go by.

MICHAELIS For parliamentary procedure, we don't do that.

LANG Yes, use Roberts Rules, unless modified by these bylaws and procedures and adopted by this Commission.

MICHAELIS What is the purpose of abstaining?

LANG The purpose is so that vote is not recorded.

ANDERSON I do not have a problem with that interpretation as long as the person abstaining leaves the room. If you are not familiar with an item, this is not a reason for abstention.

LANG They do not have to leave the room. The gray area is quasi-judicial matters is the appearances of impropriety and not voting. Another example is not being present for the previous hearing. All of these abstentions are subject to the ruling of the Chair, and that decision can be appealed to the full Board by a majority vote. A person has the right to request to abstain; part of quasi-judicial process is a fair and impartial hearing. Our recommendation is for the Chair to entertain a request to abstain when a person says their participation has the appearance of impropriety, or not reviewed the record, or prepared for the hearing.

MICHAELIS If there are 9 members present, and 1 member requests to abstain and there is a 4 to 4 vote, is the motion technically defeated.

LANG Right.

KROUT The bylaws say that you are counted on the prevailing side of the vote if you have not been excused, you are considered to have voted in the affirmative. If there is a motion to approve and 4 people vote aye, and 4 other people vote no, then affirmative on the motion is an aye.

MICHAELIS This is in conflict with Roberts.

LANG This is where we are different from Roberts. It is counted on the affirmative, rather than the prevailing. This is in the City Code.

MICHAELIS If there is an abstention, we could technically lose a quorum.

LANG Yes. There is no legal reason for a member to leave the room.

KROUT In your reading materials on ethics, there has been suggestion to leave the room to avoid the appearance of non-verbal language. Other matters. The zoning maps are on the County's GIS webpage. The December 20 meeting will start at noon. The City's CIP has been released by the City Managers Office and will be on your January 10 meeting agenda. There will be 8 or 10 streets in the CIP that are not consistent with the Comprehensive Plan. We could have a workshop to discuss the CIP prior to your January 10 meeting, possibly after the Subdivision Committee meeting on January 3.

MICHAELIS Sure, let's do that.

The Metropolitan Area Planning Department informally adjourned at 4:00 p.m.

State of Kansas)
Sedgwick County) ss

I, Marvin S. Krout, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2001.

Marvin S. Krout, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)